

(2010) 11 GUJ CK 0083
In the Gujarat High Court

Case No : Special Criminal Application No. 2102 of 2010

Pankaj Kumar Maneklal Jadav

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 18-11-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 11 GUJ CK 0083

Hon'ble Judges : Bankim N. Mehta, J;A.M. Kapadia, J

Bench : Division Bench

Advocate : J.B. Dastoor, for the Appellant; D.C. Sejpal, Assistant Public Prosecutor and Girish D. Chavda, for the Respondent

Final Decision : Dismissed

Judgement

A.M. Kapadia, J.—By filing instant petition under Article 226 of the Constitution of India, the Petitioner has prayed to issue writ of Habeas Corpus or in the nature of Habeas Corpus or any other appropriate writ, direction and/or order directing Respondent No. 2 to produce corpus Chetana before this Court, who is in illegal detention of Respondent No. 2 and further prayed to hand over her custody to him.

2. Marriage of the Petitioner with Respondent No. 3 was solemnized on 13.10.2010 as per Hindu rights and customs and the same was registered on 14.10.2010. According to the Petitioner, Respondent No. 2, who is the father of corpus Chetana, forcibly took away corpus Chetana from his house, as he is against the marriage of the Petitioner with Respondent No. 3 - Chetana. It is also averred that both are major and therefore, they are free to live as per their wish and desire. The Petitioner has therefore, filed this petition and prayed for the relief to which the reference is made in the earlier paragraph of the judgment.

3. This Court vide order dated 25.10.2010 issued Rule, which was made returnable on 28.10.2010. On returnable date, i.e. on 28.10.2010, since the Rule

could not be served because of shortage of time, Mr. JR Mishra, PI, Viramgam Town Police Station could not trace out the Corpus Chetanaben and produce before the Court. Today, Mr. JR Mishra, PI, Viramgam Town Police Station, who is personally present before the Court, has produced the corpus Chetana, who was in the custody of Respondent No. 2 - her father.

4. We have ascertained the wish and willingness of corpus Chetanaben and also ascertained whether she is in illegal detention of Respondent No. 2 - her father. She has unequivocally stated before us that it is true that her marriage with the Petitioner was solemnized on 13.10.2010 as both of them were in love with each other. However, now she has decided not to live with the Petitioner as she is very happy with her parents - Respondent No. 2. She has empathetically stated before us that after the marriage, she has never resided with the Petitioner. She is not in illegal detention of Respondent No. 2 - her father and she wants to permanently reside with her father. We therefore, permit the corpus Chetanaben to go with her father, as she is not in illegal detention of Respondent No. 2.

5. In view of this, the Habeas Corpus petition lacks merit and deserves to be rejected.

6. At this stage, Mr. JB Dastoor, learned advocate for the Petitioner does not press this petition and seeks leave to withdraw the same. Mr. Sejpai, learned APP as well as Mr. GD Chavda, learned advocate for Respondent No. 2 have no objection if leave as prayed for is granted.

7. In view of this, this Habeas Corpus petition is disposed of as it is withdrawn. Rule is discharged. The corpus Chetana is permitted to go with her father as per her desire.